

MILMAN LABUDA LAW GROUP PLLC

3000 MARCUS AVENUE
SUITE 3W8
LAKE SUCCESS, NY 11042
(516) 328-8899
(516) 328-0082

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VIA ECF

United States District Court
Eastern District of New York
Attn: Hon. James R. Cho, U.S.M.J.
225 Cadman Plaza East
Brooklyn, NY 11201-1804

Re: JGIAP RH 160 LLC v. CRI Holding Corp., *et al.*
Case No.: 1:21-cv-2489 (DG) (JRC)

Dear Judge Cho:

This firm represents Manda International Corp. (“Manda”), Strikeforce Mechanical Corp. (“Strikeforce”), and Angel Corrao (“Corrao”) (Manda, Strikeforce, and Corrao collectively hereinafter referred to as “Manda Defendants”) in the above referenced case. Manda submits this letter seeking a pre-motion conference for the reasons set forth below.

The Court will recall that all the defendants in this action have filed motions to dismiss pursuant to Federal Rules of Civil Procedure (“FRCP”) 12(b)(6). The Manda Defendants also filed a motion for sanctions pursuant to FRCP 11. The motions were fully submitted on September 8, 2022. On December 9, 2023, the Hon. Diane Gujarati, U.S.D.J. referred the motions to Your Honor for decision.

During the pendency of the Court’s consideration of the motion, Manda commenced *inter alia* a lien foreclosure action against Red Hook 160 LLC (“Red Hook”) in New York State Supreme Court, Index No. 53116/2022 (the “State Court Action”). In this action, the Plaintiff, JGIAP RH 160 LLC (“Plaintiff”) contends that it is the last in line of an assignment from Red Hook. *See* Complaint ¶ 30-33.

In the State Court Action, Red Hook moved to dismiss on the grounds that a prior action pending, i.e., this action, required dismissal because essentially the two actions are substantially the same. Today, the motion was granted solely on the ground of the prior pending action doctrine stating:

To be sure, if the Federal action is dismissed then Manda would be permitted to pursue its claims in state court and a dismissal of Federal action would surely bolster [Manda’s] mechanic’s lien claims. However, at this juncture the Federal lawsuit sufficiently encompasses all of Manda’s claims here rendering this action barred by its Federal counterpart. Therefore, based on the foregoing, the motion seeking to dismiss the action on the grounds there is a Federal action pending is granted.

See Decision & Order annexed hereto as Exhibit “A”.

Manda requests a pre-motion conference be scheduled to discuss the impact of the State Court Decision & Order as it relates to this case while the Court considers the Manda Defendants' motions. Specifically, the state court judge has conditioned the State Court Action's claims on the outcome of the Manda' defendants' motions in this case. That is, if the Court here grants the Manda Defendants' motions, then Manda will be able to re-activate its State Court Action claims against Red Hook.

But while the Manda Defendants' motions are pending here the dismissal of the State Court Action leaves Manda in limbo in its ability to pursue its mechanic's lien foreclosure. The limbo potentially further impacts the continued enforceability of the mechanic's lien and the Kings County Clerk's continued retention of the surety bond posted by Red Hook through Philadelphia Indemnity Insurance Company (another defendant in the State Court Action). In other words, Manda will be able to seek foreclosure against Red Hook in the State Court Action if the instant case is dismissed. If this case is not dismissed, then Manda may assert counterclaims *inter alia* for a mechanic's lien foreclosure and implead various other parties such as Churchill 160 Imlay Lender LLC and Red Hook. In the meantime, without a decision on the Manda Defendants' motions here, the enforceability of the mechanic's lien and the continued posting of the surety bond could potentially be negatively impacted. Manda is being severely prejudiced by the State Court's decision while the Manda Defendants' motions here are pending decision.

As such, Manda seeks a pre-motion conference for the purpose of seeking leave for an order tolling the period of the mechanic lien's enforceability as well as a stay imposed upon the Kings County Clerk from releasing the bond while this Court considers the Manda Defendants' motions.

Respectfully submitted,

MILMAN LABUDA LAW GROUP PLLC

/s

Michael J. Mauro, Esq.

Emanuel Kataev, Esq.

Kyle F. Monaghan, Esq.

3000 Marcus Avenue, Suite 3W8

Lake Success, NY 11042-1073

(516) 328-8899 (telephone)

(516) 328-0082 (facsimile)

michael@mllaborlaw.com

emanuel@mllaborlaw.com

kyle@mllaborlaw.com

Attorneys for Manda Defendants

via ECF (all counsel of record)